

September 4, 1998

**Circular Letter No. 98-04**

**Subject: Guidelines for the reporting of payments for claims made by life, property and contingency insurers, nonprofit health associations, insurance cooperatives and health services organizations.**

Section 1142 of the Puerto Rico Internal Revenue Code of 1994, as amended (Code), establishes the obligation of every employer, insurance company or any other person required to make indemnification payments on account of claims, judicial or extrajudicial, to withhold 7 percent of the amount of those payments that constitute taxable income for purposes of the Code. Such payments must be reported to the Secretary of the Treasury as well as to the recipients.

On the other hand, Section 1152 of the Code provides that every person engaged in trade or business in Puerto Rico making payments of income not subject to withholding of \$500 or more, must file a declaration with the Secretary, in the form and manner he may prescribe, setting forth the amount of such gains, profits and income paid, and the name and address of the recipient of such payments.

Based on the above, every life, property and contingency insurer, nonprofit health association, insurance cooperative and health services organization, is required to report to the Department of the Treasury payments made on account of claims for damages, including loss of profits. These informative returns must be submitted to the Secretary, with copy to the recipient of such payments, not later than February 28 of the following year. In those cases in which the claim is made through a legal representative or counsel, the informative return must be filed on the insured person's name.

Our Administrative Determination No. 98-01 of July 1, 1998 specifies a series of indemnification payments that constitute taxable income according to the Code and that must be reported in the informative returns. Amounts or payments subject to the 7

percent withholding must be reported in Form 480.6B. Payments for claims not subject to withholding must be reported by the payor in Form 480.6A.

The payor is not required to report indemnification payments for personal injuries and sickness which are tax exempt under the Code. Neither will he be required to report payments representing reimbursed expenses or costs incurred or paid by the claimant which are properly evidenced by estimates or other verifiable evidence, provided those payments do not exceed the amount of damages, based on the customary practice of the insurance industry in Puerto Rico.

The informative returns must be sent to the Returns Processing Bureau, P. O. Box 9022501, San Juan, Puerto Rico 00902-2501. Also, and regardless that the indemnification constitutes tax exempt or taxable income to the insured, the insurer must submit to the Secretary a list indicating all the indemnifications paid during the year, not later than February 28 of the following year. Said list must include the claimant's name and account number (social security), the amount of the indemnification, and the name, account number (social security), address and bar identification number of the legal representative or counsel who assisted in the claim. The list must be sent to the Fiscal Audit Bureau, P. O. Box 9024140, San Juan, Puerto Rico 00902-4140.

The insurer shall have the alternative of submitting to the Secretary the information required in the informative returns by magnetic media. In this case, he shall supply the same pursuant to the specifications established by the Department of the Treasury. Nevertheless, he must comply with the requirement of providing the recipient of the payment with the informative return, so that he can include it with the corresponding income tax return.

The content of this Circular Letter shall apply only to those payments made for the claims herein described and shall not alter or modify the provisions in effect relative to other payments made by insurers for other concepts. This Circular Letter supersedes our Circular Letter No. 94-05 of February 25, 1994.

**Remember, in Hacienda we are at your service.**

Cordially,

Xenia Vélez Silva